

REMARKS

Claims 1-21 are currently pending in the present application.¹ Claims 1 and 11 have been amended herein to clarify the scope of the present invention, support for which may be found in the specification, at least, at page 1, line 5; and page 5, line 29. No new matter has been added by way of the present claim amendments.

Applicant respectfully submits that no new issues are raised that would present the Examiner with the burden of additional search and/or consideration. For instance, Applicant is simply clarifying arguments already of record. In the event that the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into better form for appeal.

Rejection Under 35 U.S.C. 112, First Paragraph – Enablement

Claims 1-21 stand rejected as failing to comply with the enablement requirement. Applicant respectfully traverses.

The Examiner has taken the position that the claimed invention is not enabled because it is known in the art that ingesting silver is detrimental.

However, as is recognized by the present Applicant in the present specification, low dosages of biologically accessible silver can be administered, thereby avoiding or reducing any detrimental effects associated with silver ingestion. *See* specification, at least, at page 2, lines 9-14; and page 3, lines 25-29.

While not acquiescing to the Examiner's position, the present Applicant has amended claims 1 and 11 to further clarify the scope of the present invention. That is, claims 1 and 11 have been amended to recite that a therapeutically effective amount of biologically accessible

¹ It appears that the Examiner inadvertently stated in the outstanding Office Action that claims 1-20 were pending in the present application. However, claim 21 was newly added in the response dated July 7, 2008.

silver is administered in combination with cartilage. Thus, it is clear that an amount that is not “therapeutically effective” would not be encompassed by the presently claimed invention.

By reciting that the biologically accessible silver is administered in a “therapeutically effective amount”, those of ordinary skill would certainly be able to ascertain the metes and bounds of the presently claimed invention, particularly when read in light of the supporting disclosure which provides guidance as to the intended utility.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection.

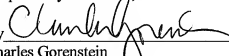
In view of the foregoing, Applicant believes the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: January 22, 2009

Respectfully submitted,

By 
Charles Gorenstein
Registration No.: 29,271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant